

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**UNITED STATES**

**v.**

**FARIDAH ALI**

:  
:  
:  
:  
:

**CRIMINAL NO. 04-CR-611-2**

**MEMORANDUM AND ORDER**

**Kauffman, J.**

**August 18 , 2005**

Presently before the Court is Defendant Faridah Ali's Motion to Dismiss Counts One and Two or, in the alternative, to require the government to elect between charged offenses and counts and sever the trial of Counts Three through Twenty-One and Counts Forty-Six through Forty-Eight from the remaining Counts ("Motion"). For the reasons stated below, this Motion will be denied.

**I. Background**

Defendant Faridah Ali ("Defendant") is charged in a Superseding Indictment with multiple counts including: violations of the Racketeer Influenced and Corrupt Organizations Act ("RICO"), 18 U.S.C. §§ 1961-1968 (Counts One and Two); conspiracy to commit mail fraud and mail fraud, in violation of 18 U.S.C. §§ 371 and 1341 (Counts Twenty-Two through Twenty-Six); conspiracy to commit wire fraud and wire fraud, in violation of 18 U.S.C. §§ 371 and 1343 (Counts Twenty-Seven through Thirty-Four and Forty-Nine through Fifty-Five); and numerous tax violations. On March 25, 2005, this Court severed Defendant's trial from that of her co-defendants, and trial in this matter is currently scheduled to begin on November 14, 2005. The present Motion argues that the Indictment is duplicitous and that it mistakenly conflates two

distinct criminal schemes: one scheme involves affairs conducted in conjunction with Keystone Information & Financial Services, Inc. (“KIFS”) and the associated Counts do not charge Defendant directly (Counts Three through Twenty-One); the other alleged scheme involves the Sister Clara Muhammad School (“SCMS”) and the direct participation of Defendant. As a result, Defendant contends that certain Counts must be severed. Because Defendant’s trial was severed from that of her co-defendants on other grounds, this Motion is partially moot. However, to the extent that Counts Three through Twenty-One represent predicate Racketeering Acts, the Motion concerns whether the Court will permit evidence of these Acts to be presented at Defendant’s trial, as well as issues of duplicity and misjoinder.

## **II. Analysis**

Contrary to Defendant’s argument, the Indictment does not improperly allege distinct criminal schemes, which should be divided, or otherwise present a problem of duplicity. Duplicity is the improper joining of two or more distinct and separate offenses in a single count. See, e.g., United States v. Starks, 515 F.2d 112, 116 (3d Cir. 1975) (describing the evils associated with such a practice, including potential double jeopardy issues, problems on appeal, and prejudice to the defendant). Here, the Indictment alleges several different criminal schemes, which have been properly joined as a RICO indictment. Courts have repeatedly recognized that schemes that might ordinarily constitute different criminal conspiracies are properly joined in a RICO enterprise offense, provided those schemes are sufficiently “related” under the statute. See United States v. Riccobene, 709 F.2d 214, 224-25 (3d Cir. 1983); United States v. Pungitore, 910 F.2d 1084, 1136 (3d Cir. 1990); see also United States v. Eufrasio, 935 F.2d 553, 564-67 (3d Cir. 1991) (finding that RICO’s relatedness standard is designed to be flexible, that criminal acts with

similar purposes, results, participants, victims, and methods of commission can be properly joined as a RICO pattern, and that the primary requirement is that the acts be charged as a related series of transactions). Contrary to Defendant's arguments, these are not two separate RICO allegations or conspiracies, but rather a series of criminal schemes which, together, constitute one RICO violation. In addition, any concerns posed by the alleged duplicity would be alleviated by special interrogatories and appropriate instructions to the jury. See, e.g., Pungitore, 910 F.2d at 1136.

Furthermore, the fact that Defendant is not alleged to have been directly and personally involved in the commission of each Racketeering Act (and the accompanying Counts) does not mean that those acts are not properly included in the charges against her. Allegations contained in these Acts, concerning the actions of certain co-defendants in conjunction with KIFS, are relevant to the charges against Defendant in two ways. First, they constitute proof of the existence of the RICO enterprise, which the government must offer to meet its burden of establishing a violation of § 1962(c) under Count One. See, e.g., United States v. Turkette, 452 U.S. 576, 583 (1981); Eufrasio, 935 F.2d at 572.

Second, to the extent that Defendant is charged with RICO conspiracy under § 1962(d), these Acts are probative in establishing both the existence of an enterprise and the pattern of racketeering activity. A defendant will be held liable for all acts of his coconspirators, regardless of whether he specifically agreed to each and every aspect of the conspiracy. See, e.g., Salinas v. United States, 522 U.S. 52, 63 (1997). To be guilty of RICO conspiracy, a defendant need not personally agree to commit or commit any particular predicate act; instead, a defendant must agree and intend to further an endeavor which, if completed, would satisfy each element of the

substantive offense. Id. at 65 (stating further that it is enough for a defendant to adopt the goal of facilitating the overall criminal endeavor); see also United States v. Antar, 53 F.3d 568, 580 (3d Cir. 1995). The government alleges that Defendant conspired to violate RICO both through the personal commission of predicate acts and through her more general agreement to engage in a pattern of racketeering through the association-in-fact enterprise (which includes SCMS, KIFS, and Hi-Tech); the latter allegation is supported by charges of Defendant's co-ownership of KIFS and alleged benefit from the funds obtained via the various criminal schemes perpetuated in conjunction with that company. The question of whether the government can actually prove Defendant's knowing involvement in the overall criminal RICO enterprise is not a matter for consideration at this stage; the only question before the Court is the adequacy and propriety of the charges themselves. See, e.g., United States v. DeLaurentis, 230 F.3d 659, 660 (3d Cir. 2000). The Court finds that the alleged Counts and Acts are not duplicitous, are directly relevant to the charges against Defendant, and are properly included in the Indictment.

In addition, as this Court has already ruled, the alleged predicate Racketeering Acts set forth in the Indictment – including the schemes involving KIFS and those involving the SCMS – are sufficiently “related” to one another to constitute a pattern of racketeering activity within the meaning of the RICO statute. See United States v. Ali, No. 04-cr-611-1 (E.D. Pa. April 14, 2005) (order denying motion to dismiss the indictment). The fact that schemes are diverse and that they involve different players does not preclude them from being joined as part of a RICO charge. See, e.g., Eufrazio, 935 F.2d at 567 (ruling that divergent criminal schemes can be charged together under RICO conspiracy provided they were all undertaken in furtherance of a single charged racketeering enterprise and conspiracy); Riccobene, 709 F.2d at 224-25. Again,

whether or not the government can ultimately prove the existence of a functioning, integrated enterprise is not the present question; the Court finds that the Indictment's allegations are legally sufficient and there is no basis for severing the different schemes.

Finally, for the reasons set forth above (including the fact that Defendant's trial has already been severed, rendering portions of her argument moot) the Indictment does not present any problems of misjoinder or prejudicial joinder. To the contrary, the Indictment properly charges violations of RICO, 18 U.S.C. § 1962(c), and RICO conspiracy, 18 U.S.C. § 1962(d), including numerous related predicate racketeering acts, and other related criminal violations.

### **III. Conclusion**

The Court finds that the Indictment does not contain duplicitous, improperly joined, or otherwise invalid charges. As a result, Defendant's Motion will be denied. An appropriate Order follows.

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**UNITED STATES**

**v.**

**FARIDAH ALI**

:  
:  
:  
:  
:

**CRIMINAL NO. 04-CR-611-2**

**ORDER**

**AND NOW**, this 18th day of August, 2005, upon consideration of Defendant's Motion to Dismiss Counts One and Two or, in the alternative, to Sever Certain Counts (docket no. 49), and the government's response thereto, it is **ORDERED** that the Motion is **DENIED**.

**BY THE COURT:**

**S/ Bruce W, Kauffman\_\_\_\_\_**  
**BRUCE W. KAUFFMAN, J.**